

B R E W E R
ATTORNEYS & COUNSELORS

August 6, 2019

VIA ECF

Hon. Christian F. Hummel
United States Magistrate Judge
United States District Court
Northern District of New York
James T. Foley U.S. Courthouse
445 Broadway, Room 441
Albany, NY 12207

Re: *National Rifle Association of America v. Cuomo*, No. 18-cv-00566-TJM-CFH

Dear Judge Hummel:

My firm represents the National Rifle Association of America (“NRA”), and I write to request a conference to discuss the NRA’s intent to file a motion for the issuance of letters of request for international judicial assistance under the Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters. Through this request, the NRA seeks documentary evidence from the Corporation of Lloyd’s (“Lloyd’s”) and to depose certain individuals from the Corporation of Lloyd’s, including, at a minimum, Igna Beale, Mark Cloutier and Jon Hancock. The NRA also seeks documentary evidence from nine Managing Agents within the Lloyd’s of London marketplace¹ and to depose representatives from each respective Managing Agent.² The NRA conferred with Defendants on July 25, 2019, and the Defendants indicated they take no position regarding the motion.

¹ The Managing Agents are as follows: AmTrust Syndicates Limited; Argo Managing Agency Limited; Atrium Underwriters Limited; Brit Syndicates Limited; Canopus Managing Agents Limited; Chaucer Syndicates Limited; Liberty Managing Agency Limited; S.A. Meacock & Company Limited; Tokio Marine Kiln Syndicates Limited (the “Managing Agents”). The Managing Agents are set up to manage one or more syndicates within the Lloyd’s marketplace on behalf of the syndicates’ membership. The NRA seeks discovery from the Managing Agents because they manage the Lloyd’s syndicates that underwrote insurance policies at issue in the Consent Order executed by the New York Department of Financial Services in December of 2018. *See* In the Matter of Certain Underwriters at Lloyd’s, London Subscribing to Insurance Policies Issued to the National Rifle Association of America, *Consent Orders Under Sections 1102 and 3420 of the Insurance Law*, dated December 20, 2018, available at https://www.dfs.ny.gov/system/files/documents/2019/01/ea181220_lloyds.pdf (last visited August 6, 2019).

² On April 19, 2019, the NRA filed its Motion to Compel Lloyd’s Entities to Comply with Non-Party Subpoenas, Or Alternatively, To Compel the DFS To Effectuate Service. *See* ECF No. 101. That motion asks the Court to compel various syndicates of the Lloyd’s insurance market and their respective managing agents (collectively, the “Lloyd’s Entities”) to comply with non-party subpoenas served on them by the NRA through the DFS. Alternatively, that motion asks the Court to compel the DFS to effectuate service of the non-party subpoenas on the Lloyd’s Entities. If, as it should, this Court grants the NRA’s motion to compel, then there will be no need for the NRA to seek discovery from the Managing Agents through the Hague Convention. If need be, the NRA is prepared to discuss this issue with the Court at the requested conference.

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Specifically, this motion is made on the grounds that Lloyd's and the Managing Agents are in possession of evidence that is central to the NRA's claims. For example, the NRA seeks documents and testimony concerning Lloyd's decision to terminate current and future NRA-related insurance programs as a result of the pressure exerted by and regulatory actions of Defendants. This evidence will illustrate the extent to which Defendants coerced and discriminated against NRA-affiliated insurers—the cornerstone of the NRA's retaliation claim. The requested information is also necessary to support the NRA's selective enforcement claim that the NRA intends to re-plead, as well as the merits of Defendants' asserted defenses. Because Lloyd's and the Managing Agents are in England, outside the Court's subpoena power, the NRA has no other way to obtain this crucial information.

The NRA is available for an in-person or telephonic conference regarding this request at the Court's earliest convenience. Thank you for your consideration of this matter.

Respectfully,



John Canoni

cc: All Counsel of Record (via ECF)